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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

KRISHNAN, GANAPATHY

ART UNIT	PAPER NUMBER
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1623

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/044,538

**Applicant(s)**

DOMB, ABRAHAM J.

**Examiner**

Ganapathy Krishnan

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

### **DETAILED ACTION**

The amendment filed 7/27/2004 has been received, entered and carefully considered.

The following information provided in the amendment affects the instant application:

1. New Claims 25 and 26 have been added.
2. Claims 1, 2, 4-20, 23 and 24 have been amended.
3. Remarks drawn to rejections under 35 USC 112, second paragraph, 102 and double patenting.

Claims 1-26 are pending in the case.

The text of those sections of Title 35, U. S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 112***

The rejection of claims 1, 5-11 and 13-20 have been overcome by amendments.

The rejection of claims 4 and 12 are maintained for reasons of record.

With respect to claim 4 applicants argue that one of ordinary skill in the art would recognize that the terms "dextrans" and "alginates" refer to dextran and alginate polymers of different molecular weights wherein the number of saccharide units range from 2 to 2000 units. This argument is not found to be persuasive. Even though the said dextrans and alginates are composed of polymers having saccharide units in the range of 2-2000 units they could still include derivatives.

With respect to claim 12 applicants argue that one of ordinary skill in the art would understand the term "cholesterols" to mean cholesterol and derivatives thereof. Even though one of ordinary skill in the art would understand the term as described by the applicants, one of

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ordinary skill in the art would not know the identity of the said derivatives. Even though the specification discloses some specific derivatives of cholesterol, these derivatives have to be recited in the claims.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Newly added claim 25 recites the term polymers. In the absence of a chemical name or structure the identity of the said polymers would be difficult to describe and the metes and bounds of said polymers applicants regard as the invention cannot be sufficiently determined because they have not been particularly pointed out or distinctly articulated in the claims.

### ***Double Patenting***

The obviousness-type double patenting rejection of instant claims 1-26 as being unpatentable over claims 1-19 of co-pending application No. 10,031,728 ('728 application) is being maintained for reasons of record.

Applicants argue that claim 1 of the '728 application recites the limitation that the polysaccharide chain must be linear and that the oligoamine has a molecular weight up to 2000 daltons. These limitations do not render the claims patentably distinct. There is still substantial overlap. A terminal disclaimer has to be filed to overcome this rejection.

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***Claim Rejections - 35 USC § 102***

Claims 1, 4, 5, 7, 12, 14, 16-21, 23 and 24 are rejected under 35 U.S.C. 102 as being anticipated by Yamaguchi et al (EP 0370810) has been overcome by applicants arguments.

***Conclusion***

Claims 1-26 are rejected

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ganapathy Krishnan whose telephone number is 571-272-0654. The examiner can normally be reached on 8.30am-5pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson can be reached on 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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